

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2777 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

MINOR MUKESH RAMMURTI TIVARI ,THRO'HIS FRIEND RAMMURTI

Versus

GAGJIBHAI AMRABHAI

Appearance:

MR DN TRIVEDI for Petitioner

MR HARDIK C RAWAL for Respondent No. 2

CORAM : MR.JUSTICE M.H.KADRI

Date of decision: 17/08/1999

ORAL JUDGEMENT

Learned Advocate for the appellant seeks permission to delete respondent No.1 from the record of this Appeal. Permission granted. Learned Advocate for the appellants restricts the claim in appeal upto Rs.10,000/-. Permission to restrict the claim upto Rs.10,000/- is granted. Necessary amendment be carried out in the memo of Appeal forthwith.

This Appeal is admitted.

Learned Advocate for the respondent No.2 waives service of admission of notice on behalf of respondent No.2. By consent of the learned Advocates for the parties, the appeal is heard and finally disposed of today.

Learned Advocates for the parties have produced necessary documentary evidence for the purpose of deciding this First Appeal.

2. The short facts of the case are that on 1.11.1992, at about 12.15 p.m., minor Mukesh Rammurti was returning after eating ice-cream from Ashok Mill to Purnima restaurant by crossing the divider and at that time, the opponent No.1 who was driving S.T. bus bearing registration No.GJ-1-Z-1198 and by his rash and/or negligent driving caused severe bodily injuries to the minor Mukesh Rammurti. The appellant, due to the vehicular accident, sustained fracture injury of Shaft-femur in left M/3 and other minor injuries. The applicant was hospitalised in Bapunagar General Hospital in all for 24 days where an operation was performed for the fracture of injury. Again the appellant was admitted to the hospital for removal of the rod implanted at the time of the operation.

3. The appellant, by way of filing M.A.C. Petition bearing No.158/94 before the M.A.C.Tribunal No.III (Aux.), Ahmedabad, claimed compensation of Rupees One Lakh to the injuries sustained by him in the vehicular accident. The tribunal, on over-all appreciation of the evidence, awarded an amount of Rs.16,000/- to the appellant on the following heads:

Rs. 10,000/- towards pain, shock and suffering.

Rs. 3,000/- towards expenses for medical treatment and for purchasing medicines etc.

Rs. 3,000/- towards combined-heads of attendance charge, special diet and conveyance charge etc.

Rs. 16,000/-

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4. Heard the learned Advocate for the appellant. Admittedly, the appellant, at the time of the accident, was 12 years of age and he has sustained injuries for

which he was hospitalised for 24 days in Bapunagar General Hospital. Looking to the injuries sustained by the appellant and the period of hospitalisation and the two operations performed, in my opinion, the tribunal ought to have awarded an amount of Rs. 15,000/- under the head of pain, shock and suffering. Therefore, the compensation of Rs.10,000/- awarded under the head of pain, shock and suffering is enhanced to Rs. 15,000/-.

5. The appellant had undergone two operations. The appellant must have spent a substantial amount towards the expenses of medicine etc. The tribunal awarded an amount of Rs.3,000/- under the head of expenses of medicine, which in my opinion, is inadequate, and therefore, the same is required to be enhanced to Rs.5,000/- under the head of expenses of medicine etc.

6. The appellant was hospitalised on 24.3.1993 in the Bapunagar General Hospital where two operations were performed. The tribunal awarded an amount of Rs. 3,000/- under the head of attendance charges, special diet etc. Looking to the period of hospitalisation, in my opinion, the amount of compensation awarded under the said head, Rs. 3,000/- is inadequate and it requires to be enhanced to Rs.5,000/-. Therefore, the appellant would be entitled to receive a compensation of Rs.15,000/- under the head of pain, shock and sufferings, Rs.5,000/- towards medicine etc., in all an amount of Rs.25,000/-. The tribunal has already awarded an amount of Rs.16,000/-. The appellant, would therefore, be entitled to an additional amount of compensation of Rs.9,000/- for the accidental injuries sustained by him which took place on 1.11.1992. The said amount of an additional amount of Rs.9,000/- shall carry an interest of 12% from the date of filing of the application till realization.

As a result of the foregoing discussion, this First Appeal is partly allowed. No order as to costs.

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msp.